STATE OF MICHIGAN

COURT OF APPEALS

In re TAYLOR, Minors.

UNPUBLISHED
February 24, 2015

No. 322394
Wayne Circuit Court
Family Division
LC No. 13-515108-NA

In re A. D. TAYLOR, Minor.

No. 322397
Wayne Circuit Court
Family Division
LC No. 08-483774-NA

Before: SERVITTO, P.J., and STEPHENS and M. J. KELLY, JJ.

PER CURIAM.

In these consolidated cases, respondent father appeals as of right from the circuit court's orders terminating his parental rights to the minor children pursuant to MCL 712A.19b(3).[1] We affirm.

Respondent first argues that the trial court improperly excluded evidence regarding the children's relationship with his parents. A trial court's decision to admit or exclude evidence is reviewed for an abuse of discretion. *Elezovic v Ford Motor Co*, 472 Mich 408, 419; 697 NW2d 851 (2005). An abuse of discretion occurs when the trial court's decision is outside the range of reasonable and principled outcomes. *Smith v Khouri*, 481 Mich 519, 526; 751 NW2d 472 (2008).

Initially, we note that this issue may be considered abandoned because respondent fails to cite any legal authority in support of his argument that the evidence was admissible. *Woods v SLB Prop Mgt, LLC,* 277 Mich App 622, 626; 750 NW2d 228 (2008); *Coble v Green,* 271 Mich

[1] In Docket No. 322394, respondent's parental rights to his two daughters were terminated pursuant to §§ 19b(3)(g), (h), and (n), and in Docket No. 322394, respondent's parental rights to his son were terminated pursuant to §§ 19b(3)(g), (h), (j), and (n).

App 382, 391; 722 NW2d 898 (2006). Regardless, we are satisfied that the trial court did not abuse its discretion by excluding the evidence.

The trial court determined that the evidence was not relevant. Evidence must be relevant to be admissible. MRE 402. Evidence is relevant if it has "any tendency to make the existence of any fact that is of consequence to the determination of the action more or less probable than it would be without the evidence." MRE 401. The evidence was offered for its alleged relevancy to the issue whether termination of respondent's parental rights was in the children's best interests. See MCL 712A.19b(5).

In determining whether termination of parental rights is in a child's best interests, the court considers a variety of factors touching on the child's needs, the parent's ability to meet those needs, and the relationship between the parent and child. See *In re White,* 303 Mich App 701, 713-714; 846 NW2d 61 (2014); *In re Olive/Metts,* 297 Mich App 35, 41-42; 823 NW2d 144 (2012). The child's relationship with the parent's family members is generally not considered, although the fact that a child has been placed with a relative is to be considered. *In re Olive/Metts,* 297 Mich App at 43. No such consideration was appropriate in this case. None of the children in this case were placed with a relative. All of the children lived with their mothers. At the time of the termination hearing respondent's mother provided extensive day care services for one child. The court must always focus on whether "an ongoing relationship with [the parent]--rather than termination--is in the child's best interest." *In re Mason*, 486 Mich 142, 168-169; 782 NW2d 747 (2010); See also MCL 712A.19a(7)(c). There is no demonstration in the record that the depth of extended family relationships was relevant to whether respondent's relationship with his children was worth preserving. Furthermore, contrary to respondent's apparent understanding at the hearing, termination of his parental rights to the children would not change his parents' status as the children's grandparents, who would have standing to seek grandparenting time under MCL 722.27b. *Porter v Hill,* 495 Mich 987; 844 NW2d 718 (2014). Therefore, the trial court did not abuse its discretion in excluding the proffered evidence.

Respondent next argues that the trial court erred in finding that termination of his parental rights was in the children's best interests. We review the trial court's best interests decision for clear error. *In re White,* 303 Mich App at 713; MCR 3.977(K).

"If the court finds that there are grounds for termination of parental rights and that termination of parental rights is in the child's best interests, the court shall order termination of parental rights and order that additional efforts for reunification of the child with the parent not be made." MCL 712A.19b(5). Whether termination is in the child's best interests is to be determined by a preponderance of the evidence. *In re Moss,* 301 Mich App 76, 90; 836 NW2d 182 (2013). The trial court must "decide the best interests of each child individually" if the best interests of the individual children are significantly different. *In re White,* 303 Mich App at 715; *In re Olive/Metts,* 297 Mich App at 42. In deciding whether termination is in the child's best interests, the court may consider the parent's parenting ability, *In re Jones,* 286 Mich App 126, 129-130; 777 NW2d 728 (2009); the child's bond to the parent, *In re BZ,* 264 Mich App 286, 301; 690 NW2d 505 (2004); the child's safety and well-being, *In re VanDalen,* 293 Mich App 120, 142; 809 NW2d 412 (2011); whether the parent can provide a permanent, safe, and stable home, *In re Frey,* 297 Mich App 242, 248-249; 824 NW2d 569 (2012); and the child's "need for

permanency, stability, and finality," *In re Gillespie,* 197 Mich App 440, 446-447; 496 NW2d 309 (1992).

Respondent is a repeat sex offender who had both a first and a fourth degree criminal sexual conduct conviction where the victims were young girls. Respondent's status as a sex offender contributed to AD becoming a court ward in 2012. Respondent's deviant behavior set a poor example for the children and irreparably disrupted their lives due to his long-term incarceration. See *In re Hudson,* 294 Mich App 261, 268-269; 817 NW2d 115 (2011); *In re Jenks,* 281 Mich App 514, 519; 760 NW2d 297 (2008). Therefore, the trial court did not clearly err in finding that termination of respondent's parental rights was in the children's best interests.

Contrary to respondent's arguments, relative placement was not a factor to be considered in this case. "[A] child's placement with relatives weighs against termination" and the fact that a child is living with relatives when the case proceeds to termination is a factor that must be explicitly addressed by the trial court in determining whether termination is in the child's best interests. *In re Mason,* 486 Mich at 164; *In re Olive/Metts,* 297 Mich App at 43. The relative-placement factor is based on MCL 712A.19a(6)(a). *In re Mason,* 486 Mich at 164. Pursuant to § 19a(6)(a), a child's placement with relatives weighs against termination when a child is in foster care. In this case, the children were not in foster care; they remained in their homes with their mothers. Furthermore, for purposes of § 19a, the term "relative" is defined by MCL 712A.13a(1)(j) as someone other than a parent. Also, although the children's interests did not differ significantly, the referee addressed each child's interests separately in her written recommendations, which were referenced in the trial court's orders. Accordingly, we reject respondent's claims of error.

Affirmed.

/s/ Deborah A. Servitto
/s/ Cynthia Diane Stephens
/s/ Michael J. Kelly